

ESTATES CODE

TITLE 3. GUARDIANSHIP AND RELATED PROCEDURES

SUBTITLE I. OTHER SPECIAL PROCEEDINGS AND SUBSTITUTES FOR
GUARDIANSHIP

CHAPTER 1355. PAYMENT OF CERTAIN CLAIMS WITHOUT GUARDIANSHIP

SUBCHAPTER A. PAYMENT OF CLAIMS TO CERTAIN INCAPACITATED
PERSONS AND FORMER WARDS

Sec. 1355.001. PAYMENT OF CLAIMS TO RESIDENT CREDITOR.

(a) In this section, "resident creditor" means a person who:

- (1) is a resident of this state; and
- (2) is entitled to money in an amount that is \$100,000 or less, the right to which is liquidated and is uncontested in any pending lawsuit.

(b) This section applies only to a resident creditor who:

- (1) is an incapacitated person or the former ward of a guardianship terminated under Chapter [1204](#); and
- (2) does not have a legal guardian of the creditor's estate.

(c) A debtor who owes money to a resident creditor to whom this section applies may pay the money to the county clerk of the county in which the creditor resides to the account of the creditor. When making a payment under this subsection, a debtor shall give to the clerk:

- (1) the creditor's name;
- (2) the creditor's social security identification number;
- (3) the nature of the creditor's disability;
- (4) the creditor's post office address; and
- (5) if the creditor is a minor, the creditor's age.

(d) The receipt for the money signed by the county clerk is binding on the resident creditor as of the date of receipt and to the extent of the payment.

(e) The county clerk shall:

- (1) by letter mailed to the address given under Subsection (c)(4), apprise the resident creditor that the deposit

was made; and

(2) on receipt of the payment, bring the payment to the court's attention.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. [626](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 1355.002. PAYMENT OF CLAIMS TO NONRESIDENT CREDITOR.

(a) In this section, "creditor" means a person who is entitled to money in an amount that is not more than \$100,000 owing as a result of transactions in this state, the right to which is liquidated and is uncontested in any pending lawsuit in this state.

(b) This section applies only to a creditor who is a nonresident minor, a nonresident person who is adjudged by a court of competent jurisdiction to be incapacitated, or the former ward of a guardianship terminated under Chapter [1204](#) who has no legal guardian qualified in this state.

(c) A debtor in this state who owes money to a creditor to whom this section applies may pay the money:

(1) to the creditor's guardian qualified in the domiciliary jurisdiction; or

(2) to the county clerk of:

(A) any county in this state in which real property owned by the creditor is located; or

(B) if the creditor is not known to own real property in this state, the county in which the debtor resides.

(d) A payment made under this section is for the creditor's account and for the creditor's use and benefit.

(e) A receipt for payment signed by the county clerk is binding on the creditor as of the date and to the extent of payment if the receipt states:

(1) the creditor's name; and

(2) the creditor's post office address, if the address is known.

(f) A county clerk who receives a payment under Subsection (c) shall handle the money in the same manner as provided for a payment to the account of a resident creditor under Sections [1355.001](#), [1355.051](#), [1355.052](#), [1355.102](#), [1355.103](#), and [1355.104](#). Those sections apply to the handling and disposition of money or any increase, dividend, or income paid to the clerk for the use, benefit, and account of the creditor to whom this section applies.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

SUBCHAPTER B. ADMINISTRATION OF MONEY

Sec. 1355.051. INVESTMENT OF MONEY BY CLERK. (a) On receipt of a payment under Section [1355.001](#), the county clerk shall invest the money as authorized under this title under court order in the name and for the account of the minor or other person entitled to the money.

(b) The county clerk shall credit any increase, dividend, or income from an investment made under this chapter to the account of the minor or other person entitled to the investment.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1355.052. ANNUAL REPORT. Not later than March 1 of each year, the court clerk shall make a written report to the court of the status of an investment made by the county clerk under Section [1355.051](#). The report must contain:

(1) the amount of the original investment or the value of the investment at the last annual report, whichever is later;

(2) any increase, dividend, or income from the investment since the last annual report;

(3) the total amount of the investment and all increases, dividends, or income at the date of the report; and

(4) the name of the depository or the type of investment.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02,

eff. January 1, 2014.

SUBCHAPTER C. WITHDRAWAL OF MONEY

Sec. 1355.101. APPLICABILITY OF SUBCHAPTER. Except as provided by Section 1355.105, this subchapter applies only to a resident creditor to whom Section 1355.001 applies.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1355.102. CUSTODIAN OF RESIDENT CREDITOR. (a) The following may serve as custodian of a resident creditor under this section:

- (1) a parent of the creditor;
- (2) the unestranged spouse of the creditor; or
- (3) if there is no spouse and both of the creditor's parents are dead or nonresidents of this state, the person who:

(A) resides in this state; and

(B) has actual custody of the creditor.

(b) An unestranged spouse residing in this state shall be given priority over a creditor's parent to serve as custodian under this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. 2759), Sec. 1.02, eff. January 1, 2014.

Sec. 1355.103. WITHDRAWAL OF MONEY BY CUSTODIAN; BOND.

(a) A resident creditor's custodian may withdraw the money from the court clerk for the creditor's use and benefit if the custodian files with the clerk:

- (1) a written application; and
- (2) a bond approved by the county judge.

(b) A custodian's bond must be:

- (1) twice the amount of the money to be withdrawn by the custodian;
- (2) payable to the judge or the judge's successors in office; and
- (3) conditioned that the custodian will:

(A) use the money for the resident creditor's benefit under the court's direction; and

(B) when legally required, faithfully account to the resident creditor and the creditor's heirs or legal representatives for the money and any increase to the money on:

(i) the removal of the creditor's disability;

(ii) the creditor's death; or

(iii) the appointment of a guardian for the creditor.

(c) A custodian may not receive a fee or commission for taking care of, handling, or spending money withdrawn by the custodian.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1355.104. CUSTODIAN'S REPORT. (a) The custodian shall file with the county clerk a sworn report of the custodian's accounting when the custodian has:

(1) spent the money in accordance with the court's directions; or

(2) otherwise complied with the terms of the custodian's bond by accounting for the money and any increase in the money.

(b) The filing of a custodian's report, when approved by the court, operates as a discharge of the person as custodian and of the person's sureties from all further liability under the bond.

(c) The court shall satisfy itself that the custodian's report is true and correct and may require proof as in other cases.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. [626](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 1355.105. WITHDRAWAL OF MONEY BY CREDITOR OR

CREDITOR'S HEIR OR REPRESENTATIVE. (a) On presentation to the court clerk of an order of a county or probate court of the county in which the money is held, money that is not withdrawn by an authorized person as provided by this chapter may be withdrawn by:

(1) the creditor, after termination of the creditor's disability;

(2) a subsequent personal representative of the creditor; or

(3) the creditor's heirs.

(b) A withdrawal under Subsection (a) may be made at any time and without a special bond for that purpose.

(c) The order presented under Subsection (a) must direct the court clerk to deliver the money to the creditor, the creditor's personal representative, or the creditor's heirs named in the order.

(d) Before the court may issue an order under this section, the person's identity and credentials must be proved to the court's satisfaction.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

SUBCHAPTER D. USE OF MONEY BY ELEEMOSYNARY INSTITUTION FOR BENEFIT OF RESIDENT

Sec. 1355.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to money of a resident of an eleemosynary institution of this state that is on deposit in a court registry and does not exceed \$10,000.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1355.152. PAYMENT OF MONEY TO INSTITUTION. (a) The judge of a county court, district court, or other court of this state may by order direct the court clerk to pay money to an eleemosynary institution of this state for the use and benefit of a resident of the institution if the court receives satisfactory proof by affidavit or otherwise that the resident:

(1) is a person who has a mental disability, an incapacitated person, or a person whose mental illness or mental incapacity renders the person incapable of caring for himself or herself and of managing the person's property and financial affairs; and

(2) has no known legal guardian appointed for the resident's estate.

(b) The affidavit under Subsection (a) may be executed by the superintendent, business manager, or field representative of the institution of which the person is a resident.

(c) The institution to which the payment is made under Subsection (a) may not be required to give bond or security for receiving the money from the court registry.

(d) The receipt from the institution for a payment, or the canceled check or warrant by which the payment was made:

(1) is sufficient evidence of the disposition of the payment; and

(2) relieves the court clerk from further responsibility for the disposition.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1355.153. DEPOSIT OF MONEY IN TRUST. (a) On receipt of money under this subchapter, an eleemosynary institution shall deposit all of the money received to the resident's trust account.

(b) Money deposited in a trust account may be used only:

(1) by or for the personal use of the owner of the trust account, under the rules or custom of the institution in the expenditure of money by a resident; or

(2) by the responsible officer of the institution, for the resident's use and benefit.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.

Sec. 1355.154. DEATH OF RESIDENT OR DEPLETION OF MONEY. (a) After the expenditure of all money in a resident's trust account, or after the resident's death, the responsible officer of

the eleemosynary institution shall furnish a statement of expenditures of the money to the resident's nearest relative who is entitled to receive the statement.

(b) A copy of the statement described by Subsection (a) shall be filed with the court that first granted the order to dispose of the money in accordance with this title.

(c) The balance of a trust account of a resident of an eleemosynary institution who dies may be applied to:

(1) the resident's burial expenses; or

(2) the care, support, and treatment account of the resident at the institution.

Added by Acts 2011, 82nd Leg., R.S., Ch. 823 (H.B. [2759](#)), Sec. 1.02, eff. January 1, 2014.